IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.8515 OF 2005

Shri Shivaji Namdeo Jadhav .. ..Petitioner

Versus

Presiding Officer, School

Tribunal, Pune Region, Pune & Ors. ..Respondents

Mr.Chandrakant Bidkar for petitioner

CORAM : P.V.KAKADE, J.

DATE : 10TH MARCH, 2006.

P.C.:

1. Heard the learned counsel for the petitioner. Perused the record.

2. The Petition is filed against the order passed by Presiding Officer, School Tribunal, Pune Region, Pune

dated 10th October, 2005 allowing the application Exh.16 in pending Appeal No.66 of 2005 whereby the third party application came to be allowed and appellant in that appeal was directed to include the names of the 3rd party applicants as respondents in the appeal. Further the third party applicants were directed to put in their say in the appeal and appeal was directed to be proceeded thereafter.

3. The pending appeal is against the respondent no.1, who is President/Secretary of the Institution and respondent no.2 is Head Master of the School being run at village Khechare by respondent no.1. Both of them have contended that the appellant in that appeal has challenged the reduction in rank at the hands of Management and the legality or otherwise of the same would be decided by the Tribunal. The third party applicant, according to the petitioner, has no concern whatsoever with the appellant’s appeal and therefore, order is challenged. The learned counsel for the petitioner made a submission to the effect that the provisions of Civil Procedure Code are not applicable to the dispute pending before the School Tribunal under the provisions of Maharashtra Employees of Private Schools

(Conditions of Service) Regulation Act, 1977. In support of his argument he pointed out the provision of Section 10 of the said Act. However, the provision of Section 10 reads thus -

> **10. General powers and procedure of Tribunal** - (1) For the purposes of admission, hearing and disposal of appeals, the Tribunal shall have the same powers as are vested in an Appellate Court under the Code of Civil Procedure, 1908, and shall also have the power to stay the operation of any order against which an appeal is made, on such conditions as it may think fit to impose and such other powers as are conferred on it by or under this Act.

Therefore, it is quite clear that the submission made on behalf of the petitioner is devoid of any merits and the Civil Procedure Code is very much applicable to the proceeding pending before the School Tribunal. This is especially so, when the MEPS Act is conspicuously silent on any special procedure to be adopted by the School Tribunal in dealing with the appeals. Once it is seen that no special and different provisions are made to

deal with proceedings before the School Tribunal, then the provisions by virtue of Section 10 of the said Act the provision of the Civil Procedure Code would be applicable and therefore, the application to join third party to the appeal definitely becomes maintainable. So far as merits of granting of application of the third persons are concerned, it is not a subject matter of this writ petition, especially when the appeal is still pending for final adjudication on merits at which time the present petitioner will have liberty to put up his case challenging the issue of joining of third party to the said appeal.

4. In view of this situation, I do not find any merits in the petition and it stands dismissed in limine.